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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,925	06/27/2001	Mitsuhiro Yano	198786US2 RE	3745

22850 7590 02/19/2002

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EXAMINER

CRANE, SARA W

ART UNIT PAPER NUMBER

2811

DATE MAILED: 02/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/891,925	YANO ET AL.	
	Examiner	Art Unit	
	Sara W. Crane	2811	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 08/432,812.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____   |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)              | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u> . | 6) <input type="checkbox"/> Other:  |

## **DETAILED ACTION**

### ***Reissue Applications***

The reissue oath/declaration filed with this application is defective because it fails to contain the statement required under 37 CFR 1.175(a)(1) as to applicant's belief that the original patent is wholly or partly inoperative or invalid by reason of a defective specification or drawing, or by reason of the patentee claiming more or less than patentee had the right to claim in the patent. See 37 CFR 1.175(a)(1) and see MPEP § 1414.

Paragraph 7. of the "Reissue Declaration under 37 C.F.R. § 1.132" includes the "partly inoperative" language, but it states that the patent "is partly inoperative by reason of the issued claims 3, 8, 9, 14, and 19 of said letters patent not fully correctly reflecting the claimed invention." This is not one of the two reasons that needs to be stated, as discussed in MPEP 1414, Section I. Note that a claim could "not fully correctly reflect the claimed invention," without claiming more or less than patentee had the right to claim.

Claims 1-22 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

***Claim Rejections - 35 USC § 112***

Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, column 17, lines 28-29, the phrase "not extending to an upper portion of said first gate" is not clear. Claim 12, column 18, lines 69-70, is similar. Examiner understands this to mean that the nitride film may extend as far as the side edge of the first gate, but would not extend above the upper portion of the first gate (as shown by, for example, 30 in figure 2). However, taken literally, the phrase could mean simply that the nitride film does not contact the upper portion of the first gate, which is something quite different.

Applicant is reminded of the continuing obligation under 37 CFR 1.178(b), to timely apprise the Office of any prior or concurrent proceeding in which Patent No. 5,945,692 is or was involved. These proceedings would include interferences, reissues, reexaminations, and litigation.

Applicant is further reminded of the continuing obligation under 37 CFR 1.56, to timely apprise the Office of any information which is material to patentability of the claims under consideration in this reissue application.

These obligations rest with each individual associated with the filing and prosecution of this application for reissue. See also MPEP §§ 1404, 1442.01 and 1442.04.

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***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "16", in figure 8, has been used to designate both the oxide layer, at the right side of the figure, and the polysilicon layer, at the center of the figure. Column 11, line 26, refers to the "oxide film 16." Also, with respect to figure 9, column 11, line 36, refers to 15 as a passivation film, but figure 9 shows 15 as a doped region in the semiconductor substrate. With respect to figure 20, column 1, line 48, refers to 17 as a passivation film, but figure 20 shows 17 crosshatched in the same manner as gate interconnection line 8. Layers made of different materials are not supposed to have the same type of crosshatching in a figure. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The references listed on the enclosed PTO 892 were cited in the issued patent 5,945,692.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Crane, whose telephone number is (703) 308-4894.

The fax phone number for this Group is (703) 308-7722.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist, whose telephone number is (703) 308-0956.

A handwritten signature in cursive script that reads "Sara W. Crane".

Sara W. Crane  
Primary Examiner  
Art Unit 2811